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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09,939,542	08/24/2001	Harold Martin	D-2959CIP	3554

7590 11/21/2002

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EXAMINER

HRUSKOCI, PETER A

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 11/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/939,542	Applicant(s) MARTIN ET AL.	
	Examiner Peter A. Hruskoci	Art Unit 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3-25, 8-27, and 9-24-02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> | 6) <input type="checkbox"/> Other: _____ |

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1. The disclosure is objected to because of the following informalities: In the specification on page 5 line 28 the "Serial Nos." should be included; and on page 33 lines 6 and 7 "baffle plates 150" are not labeled in Fig. 3.

Appropriate correction is required.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5, 6, 12, and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis 5,507,942. It is submitted that Davis disclose (see col. 7 line 1 through col. 8 line 26) the method steps recited in the instant claims.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 2-4 and 30-32, are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis as above, and further in view of Hudgens et al. 5,772,873. The claims differ from Davis as applied above by reciting that the fuel additive is coated with a hydrocarbon insoluble coating, and a specific diffusion control orifice or baffle plate is utilized. Hudgens et al. disclose (see col. 5 line 8 through col. 7 line 47) disclose that it is known in the art to utilize soluble and insoluble coating, and a diffusion orifice to slowly release an additive to a filtered liquid. It is submitted that the circular plate 71 in Fig. 2 of Hudgens et al. is considered patentably indistinguishable from the instant baffle plate. It would have been obvious to one skilled in the art to modify the method of Davis by utilizing the recited coating, diffusion orifice, and baffle plate in view of the teachings of Hudgens et al., to aid in slowly releasing the additive to the fuel. The specific number of layers in the composition and the coating of the matrix, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific fuel treated and results desired, absent a sufficient showing of unexpected results.

6. Claims 7-11, 13, 17-20, 22-29, and 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis in view of Hudgens et al. as above, and further in view of Taya et al. The claims differ from the references as applied above by reciting that the matrix comprises a specific polymeric material. Taya et al. disclose (see col. 13 line 63 through col. 14 line 36) disclose that it is known in the art to utilize the waxes of Davis

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and the recited polymeric materials as a release agent or matrix. It would have been obvious to one skilled in the art to modify the references as applied above by utilizing the recited polymeric materials in view of the teachings of Taya et al., to aid in slowly releasing the additive to the fuel.

7. Claims 21 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis in view of Hudgens et al. and Taya et al. as above, and further in view of Payer. The claims differ from the references as applied above by reciting that the matrix or coating material comprises a specific copolymer. Payer disclose (see col. 2 line 9 through col. 3 line 54) disclose that it is known in the art to utilize waxes and the recited copolymer to aid in improving the flowability of fuel. It would have been obvious to one skilled in the art to modify the references as applied above by utilizing the recited copolymer in view of the teachings of Payer, to aid in improving the flowability of the fuel.

8. Claims 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis in view of Hudgens et al. and Taya et al. as above, and further in view of Schuettenberg et al.. The claims differ from the references as applied above by reciting that the composition comprises release enhancer and reinforcement components. Schuettenberg et al. disclose (see col. 5 line 33 through col. 8 line 27) disclose that it is known in the art to utilize waxes, detergents or surfactants, and polypropylene in a fuel

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additive composition to aid in controlling engine deposits. It would have been obvious to one skilled in the art to modify the references as applied above by utilizing the recited components in view of the teachings of Schuettenberg et al., to aid in controlling engine deposits with the fuel composition.

9. Claims 9-11, 16, 30-32, and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. 6,238,554. Martin et al. disclose (see col. 5 line 24 through col. 6 line 6) a method for releasing fuel additive into fuel substantially as claimed. The claims differ from Martin et al. by reciting that the coating material surrounds at least a portion of the matrix, and the fuel additive composition has more than one layer. It is noted that Martin et al. teach the tablets of fuel additive can include an insoluble hydrocarbon coating to allow the fuel to penetrate the coating and contact the fuel additive. It would have been obvious to one skilled in the art to modify the method of Martin et al. by further coating the matrix, to aid in controlling the release of fuel additive into the fuel. The specific number of layers in the composition and the coating of both the additive and the matrix, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific fuel treated and results desired, absent a sufficient showing of unexpected results.

10. Claims 8, 13, 17-20, and 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. in view of Davis 5,507,942 and Taya et al. The claims

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differ from Martin et al. by reciting that the matrix comprises a specific polymeric material. Davis disclose (see col. 7 line 1 through col. 8 line 26) that it is known in the art to utilize a wax substrate or matrix to aid in releasing a fuel additive into a fuel. Taya et al. disclose (see col. 13 line 63 through col. 14 line 36) disclose that it is known in the art to utilize the waxes of Davis and the recited polymeric materials as a release agent or matrix. It would have been obvious to one skilled in the art to modify the method of Martin et al. utilizing the recited polymeric materials in view of the teachings of Davis and Taya et al., to aid in slowly releasing the additive to the fuel.

11. Claims 21 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. in view of Davis and Taya et al. as above, and further in view of Payer. The claims differ from the references as applied above by reciting that the matrix or coating material comprises a specific copolymer. Payer disclose (see col. 2 line 9 through col. 3 line 54) disclose that it is known in the art to utilize waxes and the recited copolymer to aid in improving the flowability of fuel. It would have been obvious to one skilled in the art to modify the references as applied above by utilizing the recited copolymer in view of the teachings of Payer, to aid in improving the flowability of the fuel.

12. Claims 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. in view of Davis and Taya et al. as above, and further in view of

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Schuettenberg et al.. The claims differ from the references as applied above by reciting that the composition comprises release enhancer and reinforcement components.

Schuettenberg et al. disclose (see col. 5 line 33 through col. 8 line 27) disclose that it is known in the art to utilize waxes, detergents or surfactants, and polypropylene in a fuel additive composition to aid in controlling engine deposits. It would have been obvious to one skilled in the art to modify the references as applied above by utilizing the recited components in view of the teachings of Schuettenberg et al., to aid in controlling engine deposits with the fuel composition.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (703) 308-3839. The examiner can normally be reached on Monday through Friday from 6:30 AM to 4:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached on (703) 308-1972. The fax phone number for this Group is (703) 872-9310 (non-after finals) and 703-872-9311 after finals.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

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Peter A. Hruskoci
Primary Examiner
Art Unit 1724

P. Hruskoci
November 14, 2002